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OFFICE OF PETITIONS

In re Application of

Cabrera, et al.

Application No. 10/824,068

: DECISION ON PETITION

Filed: April 13, 2004

Attorney Docket No. MS128810.03/40062.139USC2

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on July 24, 2007.

The petition is **granted**.

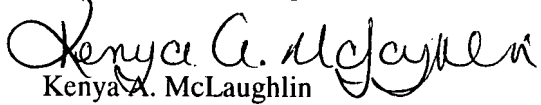
This application was held abandoned on September 5, 2006, after it was believed that no response was received to the Notice of Non-Compliant Amendment mailed August 4, 2006. The notice allowed a shortened period for reply of one (1) month from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A response was not received and the application became abandoned on September 5, 2006.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment, or termination of proceedings, is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is withdrawn accordingly.

The application file is being forwarded to the Office of Initial Patent Examination for further processing, including remailing of the "Notice of Non-Compliant Amendment" and resetting of the period for reply thereto.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

A handwritten signature in black ink, appearing to read "Kenya A. McLaughlin". The signature is fluid and cursive, with the first name "Kenya" being the most prominent part.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions